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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,687	03/06/2002	Hiroyuki Okuyama	112857-319	3793

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EXAMINER

PRENTY, MARK V

ART UNIT	PAPER NUMBER
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2822

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,687

Applicant(s)

OKUYAMA ET AL.

Examiner

MARK V PRENTY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-10 and 21-26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 11 and 13 is/are rejected.
- 7) ☒ Claim(s) 12 and 14-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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This Office Action is in response to the response filed August 25, 2003.

Claims 1-3, 11 and 13 are rejected under 35 U.S.C. §102(e) as being anticipated by Okayuma et al. (United States Patent Application Publication 2002/0145150 – hereafter Okuyama – already of record).¹

With respect to independent claim 1, Okuyama discloses a display unit (see the entire reference, including the Fig. 1 disclosure, for example), comprising: a plurality of semiconductor light emitting devices arrayed on a base body 11; wherein each of said plurality of semiconductor light emitting devices is formed by selective growth and has a structure such that at least a periphery thereof is surrounded by planes grown from tilt planes tilted from a principal plane of said base body; and one conductive layer 16 is formed in self-alignment on the planes grown from said tilt planes.

Claim 1 is thus rejected under 35 U.S.C. §102(e) as being anticipated by Okuyama.

With respect to dependent claim 2, Okuyama discloses that at least one of the planes grown from said tilt planes formed by said selective growth in each of said plurality of semiconductor light emitting devices includes an S-plane and a plane substantially equivalent thereto (see paragraph [0057], for example).

Claim 2 is thus rejected under 35 U.S.C. §102(e) as being anticipated by Okuyama.

¹ Applicants cannot rely upon the foreign priority papers to overcome this rejection because translations of said papers have not been made of record in accordance with 37 CFR 1.55. See MPEP §201.15.

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With respect to dependent claim 3, Okuyama's one conductive layer 16 is formed in self-alignment such as to be terminated on an insulating film 12 used as a mask for said selective growth.

Claim 3 is thus rejected under 35 U.S.C. §102(e) as being anticipated by Okuyama.

With respect to independent claim 11, Okuyama discloses a display unit (see the entire reference, particularly the Fig. 20 disclosure), comprising: at least two kinds of semiconductor light emitting devices 204 having different emission wavelengths (see paragraph [0118]), which are formed from a common crystal growth layer formed on a common base body 200; wherein electrodes 202 on said base body side form a common electrode.

Claim 11 is thus rejected under 35 U.S.C. §102(e) as being anticipated by Okuyama.

With respect to independent claim 13, Okuyama discloses a display unit (see the entire reference, particularly the Fig. 20 disclosure), comprising: a plurality of semiconductor light emitting devices 204 arrayed on a base body 200; wherein each semiconductor light emitting device has a light permeable region that is formed in a boundary between two of said plurality of semiconductor light emitting devices.

Claim 13 is thus rejected under 35 U.S.C. §102(e) as being anticipated by Okuyama.

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Claim 12 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 11.

Claim 14 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13.

Claim 15 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13 and dependent claim 14.

Claim 16 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13 and dependent claim 14.

Claim 17 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13, dependent claim 14 and dependent claim 16.

Claim 18 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13, dependent claim 14, dependent claim 16 and dependent claim 17.

Claim 19 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13, dependent claim 14 and dependent claim 16.

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Claim 20 is objected to as being dependent on a rejected base claim, but would be allowable over the prior art of record if amended to further include all the limitations of independent claim 13, dependent claim 14, dependent claim 16, dependent claim 17 and dependent claim 18.

Claims 4-10 and 21-26 are allowable over the prior art of record.

The prior art of record does not disclose or suggest the allowable display units taken as a whole, including the different light emitting devices and dummy devices.

The applicant's argument with respect to the maintained rejection of claims 1-3, 11 and 13 under 35 U.S.C. §102(e) as being anticipated by Okayuma is not persuasive. Specifically, as explained in the first Office Action's footnote (page 2) and again in this Office Action's footnote (page 2), applicants cannot rely upon the foreign priority papers to overcome this rejection because translations of said papers have not been made of record in accordance with 37 CFR 1.55. See MPEP §201.15.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Registered practitioners can telephone examiner Prenty at (703) 308-4939. Any voicemail message left for the examiner must include the name and registration number of the registered practitioner calling, and the Application/Control (Serial) Number. Technology Center 2800's general telephone number is (703) 308-0956.

Mark Prenty